IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION NOs: 6936, 6937, 6942, 6945 & 7130 of 1995

WRIT PETITION NO : 6936 of 1995

Between:

Pogiri Joga Rao S/o Lingamurthy
Visakhapatnam Port Trust R/o Type II, Block No.32,
Quarter No.439, Saligramapuram Port Colony,Visakhapatnam

..... PETITIONER

AND

1 Visakhapatnam Port Trust Rep. by its Chairman
Visakhapatnam - 530 035
2 Visakhapatnam Port Trust Rep. by its Traffic Manager
Visakhapatnam - 530 035
3 K.Ganapathi
Traffic Department Visakhapatnam Port Trust
Visakhapatnam - 530 035
4 N.Appalanaidu S/o not known
Traffic Department Visakhapatnam Port Trust
Visakhapatnam - 530 035

.....RESPONDENTS

WRIT PETITION NO: 6937 of 1995

Between:

Vudi Narayana Rao s/o Thatamma Naidu
Vishakapatnam port trust, H.No.49-53-6/34, Balaji Hills Visakapatnam - 530013

..... PETITIONER

AND

1 Visakapatnam Port Trust represented by its Chairman
Visakapatnam - 530035
2 Visakapatnam Port Trust represented by its Traffic

Manager, Visakapatnam 530035
3 K.Ganapathi
Visakapatnam Port Trust, Visakapatnam 530035
4 N.Appala Naidu
Visakhapatnam 530035

.....RESPONDENTS

WRIT PETITION NO: 6942 of 1995

Between:

Margana Venkata Rao S/o Chinnayya
Visakhapatnam Port Trust, Plot No.MIG II, 80/3,
M.U.P.Colony, Visakhapatnam-17.

..... PETITIONER

AND

1 Visakhapatnam Port Trust
Represented by its chairman Visakhapatnam-35.
2 Visakhapatnam Port Trust
Represented by its Traffic Manager Visakhapatnam-35
3 K.Ganapathi,
Traffic Department, Visakhapatnam Port Trust,

Visakhapatnam
4 N.Appala Naidu,
Traffic Department,Visakhapatnam Port Trust,

Visakhapatnam

.....RESPONDENTS

WRIT PETITION NO: 6945 of 1995

Between:

Guthey Sreerama Murthy, S/o. Appalaswamy,
Visakhapatnam Port Trust, Door No.28-11-14/6,
Suryabagh, Visakhapatnam - 20.

..... PETITIONER

AND

1 Visakhapatnam Port Trust, Represented by its Chairman,
Visakhapatnam - 35.
2 Visakhapatnam Port Trust, Represented by its Traffic,

Manager, Visakhapatnam -35.
3 K.Ganapathi,
Assistant yard Master (Adhoc) Traffic Department,
Visakhapatnam Port Trust, Visakhapatnam.
4 N.Appala Naidu,
Assistant yard Master (Adhoc) Traffic Department,
Visakhapatnam Port Trust, Visakhapatnam

.....RESPONDENTS

WRIT PETITION NO: 7130 of 1995

Between:

Syed Nazimuddin S/o Syed Imam
Visakhapatnam Port Trust, H.No.G-16, port Quarters,
Kancharampallem Visakhapatnam-530008

..... PETITIONER

AND

1 Visakhapatnam Port Trust rep. by Chairman
Visakhapatnam-35
2 Visakhapatnam Port Trust rep. by Traffic Manager
Visakhapatnam-35
3 K. Ganapathi
Visakhapatnam Port Trust Visakhapatnam-35
4 N. Appala Naidu
Visakhapatnam Port Trust Visakhapatnam-35

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus directing the Respondents 1and 2 herein to strict observance of Rules and Regulations in accordance with the Visakhapatnam Port Trust Employees (Recruitment, Seniority and Promotion) Rules and Recruitment Rules made under to the post and grade of Assistant Yard Master and posts beyond that grade and consequently declare the action of the Respondents 1 and 2 in promoting the Respondents 3 and 4 from the post of Yard Foreman to the Post of Assistant Yard Master, without following the above stated Rules as illegal, arbitrary, without jurisdiction, violative of Articles 14 and 16 of the Constitution of India, violation of Principles of natural justice, null and void, and further direct the respondents 1 and 2 to restore the seniority of the petitioner over and above the Respondents 3 and 4.

Counsel for the Petitioners in all the Writ Petitions: MR.M.KESAVARAO.

Standing Counsel for the Respondent Nos.1 and 2 in all the writ petitions: MR.K.SRINIVASAMURTHY

Counsel for the Respondent Nos.3 and 4: None appeared.

The Court made the following :

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION NOs: 6936, 6937, 6942, 6945 & 7130 of 1995

COMMON ORDER:

These are the batch of writ petitions filed by the employees of the Visakhapatnam Port Trust, seeking a writ of mandamus, directing the respondent Nos.1 and 2 to resort to strict observance of rules and regulations in accordance with the Visakhapatnam Port Trust Employees (Recruitment, Seniority and Promotion) Rules and Recruitment Rules made to the post and grade of Assistant Yard Master and posts beyond that grade and consequently declare that the action of the respondent Nos.1 and 2 in promoting the

respondent Nos.3 and 4 from the post of Yard Foreman to the Post of Assistant Yard Master as illegal, arbitrary and without jurisdiction and in violation of Articles 14 and 16 of the Constitution of India.

2. Petitioner in W.P.No.6936 of 1995 was appointed as a Railway Khalasi (RK) on 01-12-1965 in the employment of respondent Nos.1 and 2 organization. His academic qualification is S.S.L.C. Later he was selected to the post of Clerk (Trains) on 08-08-1972, which is a Class III post and was further selected as Yard Foreman on 05-01-1984.

3. Petitioner in W.P.No.6937 of 1995 was also appointed as a Railway Khalasi (RK) on 18-10-1967 in the employment of respondent Nos.1 and 2 organization. His academic qualification is S.S.L.C. Later he was selected to the post of Clerk (Trains) on 11-08-1972, which is a Class III post and was further selected as Yard Foreman on 05-01-1984.

4. Petitioner in W.P.No.6942 of 1995 was appointed as Hamali on 12-01-1971 in the employment of respondent Nos.1 and 2 organization. His academic qualification is S.S.L.C. Later he was selected to the post of Clerk (Trains) on 01-11-1976, which is a Class III post and was further selected as Yard Foreman on 09-08-1988.

5. Petitioner in W.P.No.6945 of 1995 was appointed as Clerk (Office) on 12-06-1972 in the employment of respondent Nos.1 and 2 organization. His academic qualification is 7th Form (Higher Secondary School Certificate). Later he was selected to the post of Clerk (Trains) on 11-07-1972, which is a Class III post and was further selected as Yard Foreman on 15-01-1980.

6. Petitioner in W.P.No.7130 of 1995 was appointed as Clerk (Trains) on 10-02-1966 in the employment of respondent Nos.1 and 2 organization. His academic qualification is B.A. Later he was selected to the post of Yard Foreman on adhoc basis for long periods and was confirmed in the said post, in accordance with Recruitment Rules.

7. Third respondent entered into service of the respondent Nos.1 and

2 organization as Railway Khalasi on 18-09-1964 who studied up to 7th Class, he was promoted to the post of coupling Porter Grade II on 20-11-1965 and further promoted to coupling Porter Grade I on 01-01-1967. All the above posts are Class IV posts. Subsequently, the 3rd respondent was selected for Class III post of Yard Foreman with effect from 13-07-1990. Subsequently, on 10-01-1994, he was selected to the post of Assistant Yard Master even though he was junior to the petitioners.

8. Fourth respondent entered into service of the respondent Nos.1 and 2 organization as a Railway Khalasi on 01-06-1965. He was promoted as coupling Porter Grade I on 01-01-1967. Later he was selected to Shunting Traffic Jamadar Grade-I on 01-07-1967. He was selected as Yard Foreman on 04-07-1991. He was further selected as an Assistant Yard Master on 27-05-1994 even though the 4th respondent was junior to the petitioners by seven years.

9. Petitioners are contending that respondent Nos.1 and 2 did not follow the procedure prescribed under the Recruitment Rules and made appointments irregularly without considering the seniority of the petitioners. Petitioners also requested the Court to restore their seniority over and above the respondent Nos.3 and 4. As per Item No.67 of the Recruitment Rules, quota has been provided to the employees from Chief Shunting Master/Senior Shunting Traffic Jamadar/Shunting Traffic Jamadar (for brevity 'STJM') to an extent of 33 1/3% quota and the employees from the Clerk (Train) are eligible up to the maximum of 66 2/3% quota. The petitioners belong to the Clerk (Train) category whereas the respondents are the employees from STJM category. Their source of recruitment is different and their quota is earmarked for the purpose of recruitment or promotion. Therefore, the contention of the petitioners is that though the respondent Nos.3 and 4 are juniors to them, they were considered for promotion for the reason that they were promoted from the category of STJM within the quota prescribed for them for the purpose of recruitment.

10. It is the contention of the petitioners that the respondent Nos.1 and 2 did not follow the Recruitment Rules and made appointments as per their own accord. Respondent Nos.1 and 2 denied the said allegation in their counter and gave the details of the recruitments made and the number of candidates allotted in each category.

11. Though the petitioners raised a contention that the Recruitment Rules have not been followed by respondent Nos.1 and 2, it is only an omnibus allegation since petitioners could not show any concrete example as to where the respondent Nos.1 and 2 violated the procedure prescribed under the Recruitment Rules. Therefore, I do not find any force in the said contention of the petitioners that the respondent Nos.1 and 2 failed to follow the procedure prescribed under the Recruitment Rules.

12. Petitioners' further contention that they shall be kept above the respondent Nos.3 and 4 in seniority, also cannot be considered unless they establish that they are entitled to get promotion earlier to the respondent Nos.3 and 4 in their respective category according to seniority quota. Since the sources of recruitments are different through a fixed quota and when there is no scope for the petitioners to get recruited in their channel of recruitment, petitioners cannot claim that they are entitled to be placed above the respondent Nos.3 and 4 and also they cannot blame the respondent Nos.1 and 2 for not considering their cases before promoting the respondent Nos.3 and 4.

13. In the light of the above circumstances, I do not find any merits in all these writ petitions.

14. The writ petitions are accordingly dismissed. No order as to costs.

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September 7,2004

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ASSISTANT REGISTRAR

September 7, 2004.

Kvr

// True Copy //

Section Officer

To

1 Chairman, Visakhapatnam Port Trust,
Visakhapatnam-35
2 Traffic Manager, Visakhapatnam Port Trust,
Visakhapatnam-35
3 Two C.D. Copies.